





# In The United States Patent And Trademark Office

Appl. Number: 09/978,215  
Appl. Filed: 10/15/01  
Applicant: Luis J. Rodriguez  
Title: Self Sealing Letter Sheets  
Examiner / GAU: Jes F. Pascua / 3727

RECEIVED  
AUG 03 2004  
TECHNOLOGY CENTER R3700

## SUPPLEMENTAL APPEAL BRIEF

### BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

This is submitted under 37 CFR 1.193 (b)(1) in response to the "Supplemental Examiner's Answer" with mailing date of July 20, 2004, received by Appellant on July 26, 2004,

### About "Status of Amendments"

Once again Examiner incorrectly states that the status of amendments reported by Appellant is incorrect. This incorrectness was in fact one of the reasons that prompted the remand of the case.

### About "Issues"

The statement by Examiner regarding the "Issues" is incorrect and confusing. The status of claims reported by Appellant was correct, as Examiner himself indicated on the "Status of Claims". New withdrawal of rejection of claims 45-53 under 112 does not make Appellant's statements incorrect. This withdrawal simply changed the status of claims and Appellant concurs with the new status reported by Examiner.

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for Appeal.

08/24/04

## About "Grouping of Claims"

Examiner retracted his previous statement that all claims fell together, and acknowledges Appellants "Grouping of Claims" in Appeal Brief. This constitutes admission that statement on "Examiner's Answer" was inappropriate.

## Issues

**I)** Supplemental Examiner's Answer is in violation of the Boards instructions in Board's response mailed June 29, 2004.

1. Examiner failed to address all the "New Issues" raised by Appellant on pages 8-11 of Reply brief as requested on page 5, 2nd para. of Board's response. These are all very serious issues that are once again respectfully brought to the Board's attention.
2. Examiner's Supplemental answer failed to address most of arguments on Amendment C, related to Appealed claims; namely:
  - Page 31, discussing proper prior art;
  - Page 38 and 39, discussing the structure of the invention;
  - Pages 40-52 related to 102 and 103 rejections;
  - Pages 53 and 55, related to 102 and 103 rejections;
  - Pages 67-75, related to 102 and 103 rejections;
3. Examiner claims to have considered Attachments 11-31. However, not one single argument therein is addressed at all, much less to the meticulous level required by the Board.
4. Examiner failed to address Exhibits A, B, C, D, and E.
5. Examiner failed to address Exhibit F (Summary of Interview by Appellant)
6. Examiner failed to address Affidavits 2 and 3.

**II)** Examiner's Supplemental Answer is simply a reiteration of "Examiner's Answer" arguments. In most cases is actually copied-and-pasted from it. Examiner's text fails to

actually identify and discuss the arguments in Amendment C, as clearly instructed by the board (Board's response page 4, third para.) Examiner simply refers to "Appellant's argument in Amendment C (Page such and such) and proceeds to replicate the text from Examiner's Answer.

Examiner further claims that these repeated arguments address Appellants arguments in Appeal Brief, and Reply Brief, which is impossible, as Examiner's arguments were submitted before the Appeal and Reply Brief.

III) It is also important to note that in spite of being confronted with the fact that all rejections are now supported by different reasons, and that all the reasons by original Examiner were completely abandoned, the new Examiner failed to substantively address the issue, and none of the original rejections was actually resubmitted.

Examiner offered some 'a posteriori' explanations that the new reasons are to "buttress" previous reasons, however the previous reasons have completely disappeared. "Examiner's Answer" flat-out failed to respond to one single argument submitted by Appellant regarding original basis for the rejections. Examiner had again an opportunity to address the arguments by Appellant regarding original rejections in his Supplemental Answer, but again failed to do so. And furthermore, Examiner additionally failed to address the arguments by Appellant about new Examiner's basis for rejections.

## **DISPUTE OF "RESPONSE TO ARGUMENTS"**

The once again submitted new arguments by the new Examiner are in blatant violation of the Board's specific instructions, the law, and any sense of ethics.

Among many other issues:

- 1) Examiner's assertion that Appellant failed to address the rejection related to the phrase "at least one" in Amendment C, Appeal Brief and Reply Brief is a false statement. As the issue was exhaustively addressed in the three cited documents, it is clear that this is not a mistake. This is a deliberate, or at least very irresponsible false statement.

See last 4 lines of page 2 of Sept. 11/02 O.A. It reads:

*«In addition the phrase "at least one" implies that there may be more than one envelope "body". However, each envelope<sup>(1)</sup> in the original disclosure has only one "body". Therefore, the phrase "at least one" as a modifier of "mono-sectional body" is drawn to new matter. This is a new matter rejection»*

See Amendment C, page 35, beginning on third para, which addresses the "at least one" issue, by disproving the Examiner's contention that «*"each envelope<sup>(1)</sup>" in the original disclosure has only one "body"*». The "at least one" phrase is hence, fully validated, and the rejection should be withdrawn. See also Appeal Brief, page 11, last line, para. 1-5 of page 12. See also page 12 (para. 4-9) of Reply brief.

- 2) Examiner's assertion that rejection of claim 49 has not been addressed, is also a false statement. See Amendment C, page 35, last three paragraphs. See Appeal Brief, page 12, last 4 paragraphs, continued on page 13. See Reply brief, Reply Brief, page 12, last two paragraphs.
- 3) Examiner further failed to reply to the issue raised in last two paragraphs of Reply Brief, regarding claim 49.
- 4) In an apparent effort to suggest diligence in complying with the Board's instructions, Examiner reiterates his erroneous allegations regarding the repositionable adhesive issue, and implies that Appellant did not address these issues in Appeal Brief and Reply Brief, which amounts to another false statement. See Appeal Brief, page 13, starting on 3rd para., and continued on page 14. See Reply Brief, page 13, beginning on 2nd para., continued on page 14. See Exhibit F, page 3, para. 6-8.
- 5) At this point, (Examiner's Supplemental Answer, page 7 (third. para.) through page 10 (two first paragraphs) Examiner embarks in a blatant copy-and-paste campaign of his previous arguments in "Examiner's Answer" claiming that they are in response to Amendment C, (Examiner inserts some Amendment C page numbers here and there), and that they are also in response to Appeal Brief, and Reply Brief. This is unbelievable. How can these arguments be in response to Appeal Brief and Reply Brief, if they were generated before Appeal Brief, and Reply Brief?. Appeal Brief and Reply Brief, are actually in response to

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(1) The disclosed and claimed invention is a Self Sealing letter Sheet, **NOT** an envelope, as characterized by original Examiner.

these arguments.

- 6) Examiner fails to address Affidavits 2 and 3. Regarding Affidavit one, this is another argument copied and pasted from "Examiner's Answer". This is another deliberate or at least very irresponsible false statement, as Affidavit 1 by itself is proof of a persistent need in the art. See Affidavit 1. Furthermore, Amendment C, and Reply Brief offer additional testimony to that effect. See Amendment C, page 66. See Reply Brief, page 21, paragraphs 2 and 3.
- 7) After this, Examiner re-takes the blatant copy-and-paste campaign, related to some 103 rejections, alleging again to be in response to Amendment C, Appeal Brief and Reply brief. (See "Examiners Supplemental Answer, page 10, last para., and three first paragraphs of page 11. Again: How can these arguments be in response to Appeal Brief and Reply Brief, if they were generated before Appeal Brief, and Reply Brief?. Appeal Brief and Reply Brief, are actually in response to these arguments.
- 8) New Examiner then proceeds to some semantic acrobatics, claiming now that his newly submitted reasons are to buttress the Original Examiner's arguments. How is it then, that all the original basis for rejections have completely disappeared from the case? That the invention is an envelope? That it has panels, etc.?

Reply Brief clearly proved that new Examiner has submitted new basis departing from the thrust of the original basis to support the original rejections, which amounts to new rejections.

Confronted with the discrepancies and contradictions between both Examiners, New Examiner now tries to connect his new arguments to one marginal argument of Original Examiner. That is that Appellant's arguments focused on "what the invention is not, rather than in what it is.

Examiner makes transparently clear his negligent Examination, and violation of the Board's instructions. The bulk of Amendment C, was actually prompted by this false contention that Applicant focuses on "what the invention is not, rather than in what it is".

See Amendment C, pages 27-30. See Amendment C, page 39. See Amendment C, pages 41-52. See Amendment C, pages 56-75. See ATTACHMENT 15. See ATTACHMENT 16. See ATTACHMENTS 21-31. See Exhibits A, B, C, D, and E.

Examiner statement that Attachments 11-14 and 15-31 have been considered has no credibility whatsoever, as they are not addressed as per the Board's specific instructions. It is actually evident, that they have not been considered, as Examiner continues to offer arguments disproved by those attachments. Referring to attachments 15-31 will suffice to verify Appellant's statements.

Again, it is notorious the fact that Examiner does not discuss at all Affidavits 2 and 3, and Exhibits A, B, C, D, and E. It is also notorious the eloquent silence regarding Appellant's summary of Interview (Also submitted as Exhibit F), which proves that Original Examiner lied on the record, as original Examiner produced a false Interview Summary; and his contradicting rulings proved his arbitrariness and/or incompetence.

The statement by new Examiner that

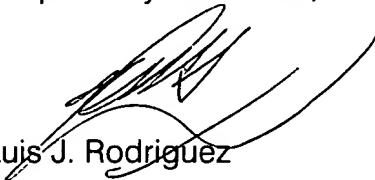
«there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection»

is completely irrelevant to this case because:

1. The basic thrust of the rejection does not remain the same, as all the new basis and reasoning are completely different and independent from the original reasoning. Furthermore, none of the original arguments was at all cited by the new Examiner's Answer.
2. As prosecution has been closed, this is hardly a fair opportunity to react to a new reasoning by a new Examiner who opted to ignore original Examiner's reasoning.
3. Although absolutely unfair and excessively burdening, Appellant did react to the new rejections, and Examiner still opted to ignore Appellants arguments to the new rejections, as evidenced by a lack of a reply, or even acknowledgment of the arguments to the new rejections.

It is clear that Examiner's Supplemental Answer is in violation of the law and the Board's instructions to meticulously address all the arguments and issues presented by Appellant. Such unresponsiveness is a clear concession that all the rejections are invalid. Accordingly, Appellant respectfully requests that all the rejections are reversed.

Respectfully submitted,



Luis J. Rodriguez

-----Pro-Se Applicant-----

Date: July 28, 2004

**CERTIFICATE OF MAILING:**

**Date of Mailing:** July 28/04

I hereby certify that this correspondence, including its attachments is being deposited with the United States Postal Service "EXPRESS MAIL TO ADDRESSEE" service # ER-958043018-US under 37 CFR 1.10 on the date indicated above, and is addressed to **Mail Stop Appeal Brief-Patents**, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

Luis J. Rodriguez,

Pro-Se Applicant

Signed:

